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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,649	09/12/2000	Jean-Francois Le Pennec	FR9-1998-0072-US1	6968

7590 03/27/2003

BRACEWELL & PATTERSON LLP
Intellectual Property Law
P.O. Box 969
Austin, TX 78767-0969

EXAMINER

FLYNN, KIMBERLY D

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 03/27/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

PD

Office Action Summary

Application No.

09/659,649

Applicant(s)

LE PENNEC ET AL.

Examiner

Kimberly D Flynn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 3-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 5-6, and 7-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-8 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-2, and 5-8 are drawn to a system for requesting files and transferring files from a remote or distant server to a local server classified in class 709, subclass 219.

II. Claims 3-4 are drawn to a system for maintaining coherency of files among servers, classified in class 707, subclass 201.

2. The inventions are distinct from each other because of the following reasons:

Inventions I-II are related as a subcombination disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, inventions I-II have separate utility such as:

Invention I can be used to request files from remote servers that are not locally stored.

Invention II can be used to update files on remotes servers that have been modified locally. See MPEP § 806.05(d).

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated are proper.

The search required for each group is different and not co-extensive for examination purposes. For example, the searches for inventions would not be co-extensive because these

groups would require different searches on the PTO's classification class and subclass as follows:

(a) the group I search (claims 12, and 5-8) would require use of search Class 709, subclass 219.

(b) the group II search (claims 3-4) would require use of Class 707, subclass 201 (not required for invention I).

During a telephone conversation with Mr. Craig Yudell on March 18, 2003, a provisional election was made without traverse to prosecute the invention of group I claims 1-2, and 5-8. Affirmation of this election must be made by applicant in replying to this Office action. Claims 3-4 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Priority

4. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

5. The abstract of the disclosure is objected to because the applicant's use legal phraseology such as the term "said" (line 20) and the use of such phrases as "According to the invention" (line 6), which can be implied. In particular the use of such language should be avoided. The abstract should also be placed in narrative form and limited to a single paragraph. Correction is required. See MPEP § 608.01(b).

6. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-2, 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logue et al. (U. S. Patent No. 5,935,207, hereinafter Logue) in view of Lee et al. (U.S. Patent No. 6,466,970, hereinafter Lee).

In considering claims 1-2, 5, and 7, Logue discloses a server comprising means for carrying out the method for providing a file comprising the following steps:

receiving a request for a file (col. 5, lines 43),

identifying the file as being stored in a distant server(col. 5. lines 43-49),

requesting the distant server to send the file and forwarding the file (col. 5, lines 50-51).

While Logue discloses the invention substantially as claimed, Logue does not disclose the step of "identifying the file as being used". Nonetheless this is a well-known feature in the art of transferring files between servers.

In similar art, Lee discloses a server system on a network such as the World Wide Web, which collects, aggregates, and stores information about the content of one or more requests for one or more Web pages from one or more requestors connected to the network. The system as disclosed by Lee, further comprises a logger process running on a server that receives web pages with metadata from the server process before the page is sent to the requestor. The logger process extracts metadata attached to the web page and stores it in a record in a log along with some information about the web requestor who made the respective web page request (col.5, lines 62-67 through col. 6, lines 1-4). The information is stored in order to maintain a record of the files being used and by whom.

A person having ordinary skill in the art at the time the invention was made would have readily recognized the advantages of modifying the system as disclosed by Logue, to include the logger process taught by Lee, in order to provide the administrators and designers with detailed information about the interaction of requestors and the content requested. It would also more

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efficient log analysis. Therefore, the claimed limitation would have been an obvious modification.

In considering claims 6 and 8, Logue discloses the server further comprising a remotely logged client table for identifying where the file has been forwarded (col. 5, lines 56-60, and 65-67).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D Flynn whose telephone number is 703-308-7609. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 703-305-4792. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703) 746-7238, for After Final communications


(703) 746-7239, for Official communications

(703) 746-7240, for Non-Official/Drafts.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Kimberly D Flynn
Examiner
Art Unit 2153

KF
March 21, 2003


GLEN B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100